

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kelly Guillon	Team: Squad #17	CCRB Case #: 202302572	<input checked="" type="checkbox"/> Force <input checked="" type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input checked="" type="checkbox"/> Abuse <input checked="" type="checkbox"/> O.L. <input type="checkbox"/> Injury
Incident Date(s) Thursday, 03/23/2023 8:28 PM, Thursday, 03/23/2023 8:54 PM, Thursday, 03/23/2023 10:30 PM	Location of Incident: Outside of § 87(2)(b) East 113th Street and 2nd Avenue, § 87(2)(b)	18 Mo. SOL 9/23/2024	Precinct: 23
Date/Time CV Reported Mon, 03/27/2023 6:10 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 03/27/2023 6:10 PM

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. PO Roy Anuskiewicz	16860	960165	023 PCT
3. PO Jonathan Tait	16446	966876	023 PCT
4. PO Eric Perrier	13557	956162	PSA 5
5. PO Emanuel Crespo	16149	957496	PSA 5
6. PO Luis Hiraldo-Garcia	02986	963570	PSA 5

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Elliott Johnsonsgales	07947	967561	023 PCT
2. PO Connor Lisante	09545	959760	023 PCT
3. SGT Kenneth Bryant	05129	950119	PSA 5
4. DTS Anthony Baresi	03675	951522	PSA 5
5. PO Joel Feliz	08876	966568	043 PCT
6. PO Steven Grice	17934	961796	PSA 5
7. PO Joseph Wozniak	10339	970326	PSA 5
8. PO Amela Dzihic	31626	965064	PSA 5
9. PO Hemil Mejia	18704	971559	023 PCT
10. PO Christopher Caleco	09294	970436	023 PCT
11. PO Artur Espenberg	24642	952713	PSA 5
12. PO Faysal Bellal	10749	973936	PSA 5
13. PO Kelvin Gomez	26554	948345	PSA 5
14. SGT Sujin Samuel	01735	939410	PSA 6
15. PO John Cannon	29810	973287	HBM RT
16. PO Joanna Oliver	25308	975066	025 PCT
17. PO Jake Feldman	19824	963982	025 PCT
18. SGT Joshua Faranda	02356	938461	025 PCT
19. PO Alexander Pacult	26746	972154	025 PCT
20. PO Miguel Abreu	06311	972493	023 PCT
21. PO Norman Brissett	17999	960280	025 PCT
22. PO Justin Senese	21424	959978	025 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
23. Daniel Scott		959973	

Officer(s)	Allegation	Investigator Recommendation
A . PO Emanuel Crespo	Abuse: Outside of § 87(2)(b) in Manhattan, Police Officer Emanuel Crespo stopped § 87(2)(b)	
B . PO Eric Perrier	Abuse: Outside of § 87(2)(b) in Manhattan, Police Officer Eric Perrier stopped § 87(2)(b)	
C . PO Luis Hiraldo-Garcia	Abuse: Outside of § 87(2)(b) in Manhattan, Police Officer Luis Hiraldo-Garcia stopped § 87(2)(b)	
D . Officers	Discourtesy: Outside of § 87(2)(b) in Manhattan, officers spoke discourteously to § 87(2)(b)	
E . Officers	Off. Language: Outside of § 87(2)(b) in Manhattan, officers made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	
F . PO Emanuel Crespo	Discourtesy: Outside of § 87(2)(b) in Manhattan, Police Officer Emanuel Crespo spoke discourteously to § 87(2)(b)	
G . PO Luis Hiraldo-Garcia	Abuse: Outside of § 87(2)(b) in Manhattan, Police Officer Luis Hiraldo-Garcia failed to provide § 87(2)(b) with a business card.	
H . PO Eric Perrier	Abuse: Outside of § 87(2)(b) in Manhattan, Police Officer Eric Perrier failed to provide § 87(2)(b) with a business card.	
I . PO Emanuel Crespo	Abuse: Outside of § 87(2)(b) in Manhattan, Police Officer Emanuel Crespo failed to provide § 87(2)(b) with a business card.	
J . PO Jonathan Tait	Discourtesy: At East 113th Street and 2nd Avenue in Manhattan, Police Officer Jonathan Tait spoke discourteously to § 87(2)(b)	
K . PO Jonathan Tait	Off. Language: At East 113th Street and 2nd Avenue in Manhattan, Police Officer Jonathan Tait made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	
L . PO Roy Anuskiewicz	Discourtesy: At East 113th Street and 2nd Avenue in Manhattan, Police Officer Roy Anuskiewicz spoke discourteously to § 87(2)(b)	
M . PO Roy Anuskiewicz	Off. Language: At East 113th Street and 2nd Avenue in Manhattan, Police Officer Roy Anuskiewicz made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	
N . PO Roy Anuskiewicz	Abuse: At East 113th Street and 2nd Avenue in Manhattan, Police Officer Roy Anuskiewicz threatened § 87(2)(b) with the use of force.	
O . Officers	Force: At East 113th Street and 2nd Avenue in Manhattan, officers used physical force against § 87(2)(b)	
P . PO Roy Anuskiewicz	Force: At East 113th Street and 2nd Avenue in Manhattan, Police Officer Roy Anuskiewicz used physical force against § 87(2)(b)	
Q . PO Roy Anuskiewicz	Abuse: At East 113th Street and 2nd Avenue in Manhattan, Police Officer Roy Anuskiewicz searched § 87(2)(b)	
R . PO Roy Anuskiewicz	Discourtesy: At East 113th Street and 2nd Avenue in Manhattan, Police Officer Roy Anuskiewicz spoke discourteously to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
S . Officers	Abuse: At East 113th Street and 2nd Avenue in Manhattan, officers failed to provide § 87(2)(b) with a business card.	
T . PO Jonathan Tait	Abuse: At East 113th Street and 2nd Avenue in Manhattan, Police Officer Jonathan Tait forcibly removed § 87(2)(b) to the hospital.	
U . PO Roy Anuskiewicz	Abuse: At East 113th Street and 2nd Avenue in Manhattan, Police Officer Roy Anuskiewicz failed to provide § 87(2)(b) with a business card.	
V . PO Roy Anuskiewicz	Abuse: At § 87(2)(b) located at § 87(2)(b) in Manhattan, Police Officer Roy Anuskiewicz failed to provide § 87(2)(b) with a business card.	
W . PO Jonathan Tait	Abuse: At § 87(2)(b) located at § 87(2)(b) in Manhattan, Police Officer Jonathan Tait failed to provide § 87(2)(b) with a business card.	
§ 87(2)(g), § 87(4-b)		

Case Summary

§ 87(2)(b) filed this complaint via the CCRB’s online website on March 27, 2023.

On March 23, 2023, at approximately 8:28 PM, § 87(2)(b) was stopped by Police Officers Emanuel Crespo, Eric Perrier and Luis Hiraldo-Garcia of Patrol Service Area 5 (PSA 5) outside of § 87(2)(b) in Manhattan (**Allegations A, B, and C: Abuse of Authority, § 87(2)(g)**) and multiple officers allegedly called § 87(2)(b) a “bitch” (**Allegation D: Discourtesy and Allegation E: Offensive Language, § 87(2)(g)**). PO Crespo then used the word “fuck,” while communicating with § 87(2)(b) (**Allegation F: Discourtesy, § 87(2)(g)**). PO Crespo, PO Perrier, and PO Hiraldo-Garcia let § 87(2)(b) leave without offering him their business cards (**Allegations G – I: Abuse of Authority, § 87(2)(g)**).

The same day, at approximately 8:54 PM, § 87(2)(b) was within the vicinity of East 113th Street and 2nd Avenue in Manhattan, when he was allegedly called a “bitch,” by Police Officer Jonathan Tait and Police Officer Roy Anuskiewicz of the 23rd Precinct (**Allegation J: Discourtesy and Allegation K: Offensive Language, § 87(2)(g)**). (**Allegation L: Discourtesy and Allegation M: Offensive Language, § 87(2)(g)**). § 87(2)(b) then punched the front hood of the officers’ police vehicle, and the officers exited it. PO Anuskiewicz pointed his taser at § 87(2)(b) (**Allegation N: Abuse of Authority, § 87(2)(g)**) and § 87(2)(b) was then allegedly taken down to the ground and handcuffed by a group of officers (**Allegations O: Force, § 87(2)(g)**). During the handcuffing, PO Anuskiewicz questioned why § 87(2)(b) was “crying” in reference to his masculinity multiple times and pulled on § 87(2)(b) hair (**Within Allegations L and M**) (**Allegation P: Force, § 87(2)(g)**). After § 87(2)(b) was handcuffed, PO Anuskiewicz searched § 87(2)(b) pants pockets without his consent (**Allegation Q: Abuse of Authority, § 87(2)(g)**). While communicating with § 87(2)(b) PO Anuskiewicz called his face “disgusting,” and told § 87(2)(b) that he “loved [his] mother” (**Allegation R: Discourtesy, § 87(2)(g)**). § 87(2)(b) then allegedly requested all the officers’ business cards and did not receive any (**Allegation S: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) was then brought to § 87(2)(b) located at § 87(2)(b) in Manhattan as an emotionally disturbed person (**Allegation T: Abuse of Authority, § 87(2)(g)**). PO Anuskiewicz failed to offer § 87(2)(b) his business card (**Allegation U: Abuse of Authority, § 87(2)(g)**).

The same day, at approximately 10:30 PM, within the lobby of § 87(2)(b) § 87(2)(b) allegedly requested PO Anuskiewicz’s and PO Tait’s business cards (**Allegation V: Abuse of Authority, § 87(2)(g)**) and Allegation W: Abuse of Authority, § 87(2)(g).

§ 87(2)(g), § 87(4-b)

§ 87(2)(b) was not arrested nor was he given a summons related to this incident.

The investigation received 30 body-worn camera (BWC) videos related to the incident (**BR 01 and BR 02**).

Findings and Recommendations

Allegation (A) Abuse of Authority: Outside of § 87(2)(b) in Manhattan, Police Officer Emanuel Crespo stopped § 87(2)(b)

Allegation (B) Abuse of Authority: Outside of § 87(2)(b) in Manhattan, Police Officer Eric Perrier stopped § 87(2)(b)

Allegation (C) Abuse of Authority: Outside of § 87(2)(b) in Manhattan, Police Officer Luis Hiraldo-Garcia stopped § 87(2)(b)

At runtime 00:00 of PO Espenberg's BWC footage (**BR 03**), the first minute of which has no audio, PO Espenberg is walking alone on a sidewalk as he enters the courtyard of § 87(2)(b) in Manhattan. At runtime 00:19, PO Espenberg approaches the front steps of the building as a black male wearing dark clothing is captured standing at the front entrance of the building looking towards the officer. As PO Espenberg continues to walk towards the entrance, the black male turns away from the officer and appears to place his left hand at or within his left sided coat pocket. At runtime 02:23, the black male runs away from PO Espenberg as the officer gives chase. At runtime 00:30, PO Espenberg places his radio near his face; however, at this point it is unclear what the officer is reporting due to lack of audio. At runtime 00:45, the black male reaches the front entrance of § 87(2)(b) in Manhattan as he opens the front door and enters the building. At runtime 00:51, PO Espenberg follows the male into the building and attempts to find him through a staircase and a hallway but is unsuccessful. At runtime 01:36, PO Espenberg reports over the radio that he observed a "male with a firearm," at the location near East 115th Street and 2nd Avenue. At runtime 02:00, the radio dispatcher requests a description of the suspect as PO Espenberg replies, "Male black approximately six-foot wearing a black jacket and navy-blue pants, sweatpants." At runtime 02:20, the dispatcher asks for confirmation of the description and PO Espenberg replies, "Male black approximately six-foot-one with a black jacket wearing navy-blue sweatpants." At runtime 02:30, PO Crespo is heard over PO Espenberg's radio that he has spotted the suspect.

At runtime 00:00 of PO Crespo's BWC footage (**BR 04**), the first minute of which has no audio, PO Crespo appears to be alone while operating his police vehicle within the vicinity of East 113th Street and 2nd Avenue in Manhattan. At runtime 00:26, PO Crespo exits the vehicle near § 87(2)(b) in Manhattan as he runs to East 115th Street, and he does not appear to be chasing anyone. At runtime 00:46, the officer reaches the intersection of East 115th Street and 2nd Avenue as he looks back and forth before turning back towards § 87(2)(b) and approaches PO Perrier. At runtime 01:00, PO Crespo activates his BWC as PO Perrier asks, "Where did they go?" and he replies, "They went up this way" as he points towards East 113th Street and describes the suspects as "two kids" wearing, "all black on black." At runtime 01:18, PO Crespo walks towards § 87(2)(b). At runtime 01:30, PO Crespo explains to PO Perrier that just earlier he and PO Espenberg observed the suspects exit from a dead-end street, so PO Espenberg stopped the vehicle nearby before exiting the vehicle and chased the two suspects. While PO Crespo speaks, PO Espenberg's above-detailed radio transmission of a suspect description is audible. At timestamp 01:52, PO Crespo's BWC footage captures § 87(2)(b) in the background on the left walking away from PO Crespo. § 87(2)(b) is wearing a black hoodie with dark blue loose-fitting jeans and his dark hair is covering his ears and neck. The only exposed skin visible from behind are § 87(2)(b) hands at his sides. § 87(2)(b) is the only individual captured on the sidewalk. At runtime 01:53, PO Espenberg is heard over the radio stating the suspect is a black male wearing a black jacket with navy-blue sweatpants. At runtime 01:55, PO Crespo then says, "Navy-blue sweatpants right there," as he looks and runs in § 87(2)(b) direction with PO Hiraldo-Garcia, who is ahead of PO Crespo. At runtime 02:00, PO Crespo speaks into his radio as he says, "Yo [Espenberg] I got eyes on him right now." PO Perrier runs past PO Crespo and heads toward § 87(2)(b). At runtime 02:02, PO Hiraldo-Garcia is the first officer to reach § 87(2)(b) holding his arms from behind to guide the front of his body against the side of a parked vehicle. PO Perrier approaches and grabs § 87(2)(b) left arm. At

runtime 02:04, PO Crespo runs up to § 87(2)(b) and the other two officers and states, “Wait, wait, wait... He’s male black, male black.” PO Crespo tells § 87(2)(b) that he is “ok” and to “just go” as he gestures with his hand for § 87(2)(b) to walk away as the other two officers let go of § 87(2)(b). § 87(2)(b) walks backwards and away from the officers towards East 113th Street. He stops to briefly question why he was stopped before walking away. PO Crespo reports over the radio to “disregard” his comments of locating the suspect.

§ 87(2)(b) statement (BR 05) is generally consistent with the footage collected. § 87(2)(b) described himself as a Hispanic male standing at six feet and two inches.

PO Crespo’s statement (BR 06) is generally consistent with the footage collected with the following additions and exceptions. Prior to interacting with § 87(2)(b) the officer was operating his police vehicle as he drove slowly northbound at East 113th Street and 2nd Avenue towards East 115th Street with his partner PO Espenberg seated in the front passenger seat. The officers drove behind two black individuals that wore “all black.” PO Crespo believed that these two civilians were “suspicious” for the following reasons: because one of them wore a ski mask, they constantly turned their heads back to observe the police vehicle, and eventually they walked faster as they entered § 87(2)(b) courtyard which led to officers losing sight of them. PO Espenberg then told PO Crespo that he was going to “investigate further” as he exited the police vehicle alone and walked inside the courtyard and out of PO Crespo’s sight. While waiting for his partner to return, PO Crespo saw one of the two civilians run out of the courtyard and heard PO Espenberg report over the radio that he spotted two civilians with a firearm, and they had evaded him on foot. PO Crespo pursued the civilian that he saw running out of the courtyard in his police vehicle. The civilian ran towards 115th Street until he made a sudden 180-degree turn and successfully evaded PO Crespo. PO Crespo then exited his vehicle where he met PO Perrier and PO Hiraldo-Garcia. When PO Crespo heard PO Espenberg’s suspect description over the radio, he noticed § 87(2)(b) about 20 feet away and believed he was wearing a black jacket with dark blue colored pants. PO Crespo could not see his skin tone at this time. Once PO Crespo was approximately five feet away from § 87(2)(b) he determined that he was not the suspect they were looking for, given § 87(2)(b) light skin tone, and told the other officers to let § 87(2)(b) go. PO Crespo would not have stopped § 87(2)(b) if he had observed his skin tone prior to the stop.

PO Perrier’s statement (BR 07) is generally consistent with the footage collected with the following additions and exceptions. The stop was PO Crespo’s decision and PO Perrier was assisting him with the stop. PO Perrier trusted PO Crespo’s decision because he had previously directly observed the suspects. PO Perrier assisted PO Hiraldo-Garcia by placing § 87(2)(b) against the vehicle to prevent § 87(2)(b) from evading the officers.

PO Hiraldo-Garcia’s statement (BR 08) is generally consistent with the footage collected and PO Perrier’s statement with the following additions and exceptions. PO Hiraldo-Garcia placed § 87(2)(b) against the vehicle because at the time § 87(2)(b) was suspected of being armed and dangerous and he wanted to restrict § 87(2)(b) ability to move to ensure the safety of himself and everyone else around him.

Event Number § 87(2)(b) (BR 28) explains that at the time of the incident an approximately six-foot-one-inch-tall black male wearing a black jacket and navy-blue sweatpants had a firearm and ran into residential building § 87(2)(b) in Manhattan. No gunshots or injuries occurred as a result of this incident. The officers who responded to the incident location canvassed the general vicinity and were unsuccessful in locating the suspect.

A stop report log search request for PSA 5 was made for the date of the incident and the search yielded negative results (BR 29).

Patrol Guide Procedure 212-11 (BR 09) states that reasonable suspicion exists when the information known to the member of the service would make an ordinarily prudent and cautious police officer believe that a crime has been committed. A stop is any encounter between a civilian and uniformed member of service in which a reasonable person would not feel free to disregard the officer and walk away. A stop may be conducted only when a police officer has an individualized reasonable suspicion that the person stopped has committed a felony or Penal Law misdemeanor.

Absent flight, a general description combined with spatial and temporal proximity to the scene of the reported crime will provide reasonable suspicion (People v. Samuels, 977 N.Y.S.2d 654 (BR 10)). With sufficient spatial and temporal proximity to the reported crime, and to police action related to the crime, even a partial match of a general description can provide reasonable suspicion (People v. Brown, 11 N.Y.S.3d 616 (BR 30)).

The officers' statements are consistent with the available video evidence. At PO Crespo's initial observation of § 87(2)(b) due to distance and positioning, he was unable to clearly distinguish § 87(2)(b) skin tone; § 87(2)(g)

Though he was not wearing a jacket or sweatpants as reported by PO Espenberg, the black hoodie and loose-fitting navy-blue pants § 87(2)(b) wore § 87(2)(g). Once PO Crespo was in a position to observe § 87(2)(b) skin tone, he, PO Perrier, and PO Hiraldo-Garcia allowed him to leave. § 87(2)(g)

Allegation (D) Discourtesy: Outside of § 87(2)(b) in Manhattan, officers spoke discourteously to § 87(2)(b)

Allegation (E) Offensive Language: Outside of § 87(2)(b) in Manhattan, officers made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)

Allegation (F) Discourtesy: Outside of § 87(2)(b) in Manhattan, Police Officer Emanuel Crespo spoke discourteously to § 87(2)(b)

Allegation (G) Abuse of Authority: Outside of § 87(2)(b) in Manhattan, Police Officer Luis Hiraldo-Garcia failed to provide § 87(2)(b) with a business card.

Allegation (H) Abuse of Authority: Outside of § 87(2)(b) in Manhattan, Police Officer Eric Perrier failed to provide § 87(2)(b) with a business card.

Allegation (I) Abuse of Authority: Outside of § 87(2)(b) in Manhattan, Police Officer Emanuel Crespo failed to provide § 87(2)(b) with a business card.

At runtime 02:10 of PO Crespo's BWC footage (BR 04), PO Crespo tells § 87(2)(b) that he is free to go, and § 87(2)(b) walks away from the officers. At runtime 02:22, § 87(2)(b) walks back towards the officers as PO Crespo tells him, "Just go, just go," and § 87(2)(b) questions why the officers stopped him. PO Crespo explains that they were "looking for somebody" and explains that the individual they were looking for was not him. PO Crespo then tells § 87(2)(b) "Just walk bro, what the fuck." § 87(2)(b) turns away from the officers and briefly walks away. At runtime 02:57, § 87(2)(b) turns back towards the officers. At runtime 03:09, as § 87(2)(b) walks toward PO Crespo, the officer tells him, "Didn't I just tell you to leave, bro?" § 87(2)(b) then turns away from the officers once again and walks away from the scene. As § 87(2)(b) is walking away, PO Crespo says aloud, "The fuck." PO Crespo's BWC footage captures the entire incident between officers

and § 87(2)(b) and at no point does it capture any officer offering their business card to him nor does it capture any officer using the word “bitch,” while interacting with him.

At no point in the exhaustive BWC footage of this portion of the incident does an officer call § 87(2)(b) a “bitch,” nor does any officer offer their business card to § 87(2)(b) (BR 02).

§ 87(2)(b) statement (BR 05) was generally consistent with the footage collected with the following additions and exceptions. While the officers were initially chasing him, he heard at least one of the officers say, “We got you, you little bitch.” § 87(2)(b) was then placed against a civilian’s parked vehicle and heard at least two officers call him a “bitch.”

PO Crespo’s statement (BR 06) is generally consistent with the footage collected with the following additions and exceptions. The officer denied calling § 87(2)(b) a “bitch,” or hearing another officer do so. PO Crespo used the word “fuck,” while interacting with § 87(2)(b) because he described the situation as chaotic due to him losing his partner and looking for a suspect with an alleged firearm. PO Crespo did not offer § 87(2)(b) his business card because it was an oversight on his part.

PO Perrier’s and PO Hiraldo-Garcia’s statements (BR 07 and BR 08) are generally consistent with the footage collected with the following additions and exceptions. The officers denied calling § 87(2)(b) a “bitch,” or hear another officer do so. The officers did not offer § 87(2)(b) their business cards because they were assisting PO Crespo with his stop, so they did not believe they were required to offer their business cards for this reason.

BWC footage captures the entire interaction regarding this section of the incident and at no point does it capture an officer calling § 87(2)(b) a “bitch,” or using the word, “bitch.” § 87(2)(g)

NYPD Patrol Guide Procedure 200-02 (BR 11) states that the NYPD is committed to treating every citizen with compassion, courtesy, professionalism, and respect.

In DAO-DCT Case Number 2013-10143 (BR 12) the court held that, per precedent, use of profanity by NYPD is “permissible where the officer has resorted to such language in the heat of a highly dangerous situation.”

It is undisputed that while communicating with § 87(2)(b) PO Crespo used the word, “fuck,” twice. In the officer’s statement, he explained that he used profanity while interacting with § 87(2)(b) because the situation was chaotic during a search for an armed suspect after he was separated from his partner, PO Espenberg. § 87(2)(g)

At the conclusion of a law enforcement activity, such as a pedestrian stop, an officer must offer a business card to all persons involved in the activity except when circumstances require immediate action by such officer NYC Administrative Code 14-174 (BR 13).

§ 87(2)(g) and it is undisputed that none of the officers at the scene offered their business cards to him. Though the officers were involved in a semi-urgent job regarding a fleeing subject

withholding a concealed firearm, footage shows that the officers stayed within the incident location communicating with one another while § 87(2)(b) had reengaged with the officers two additional times, thus negating any apparent exigency that would have made offering a business card imprudent. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation (L) Discourtesy: At East 113th Street and 2nd Avenue in Manhattan, Police Officer Roy Anuskiewicz spoke discourteously to § 87(2)(b)

Allegation (M) Offensive Language: At East 113th Street and 2nd Avenue in Manhattan, Police Officer Roy Anuskiewicz made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)

Allegation (N) Abuse of Authority: At East 113th Street and 2nd Avenue in Manhattan, Police Officer Roy Anuskiewicz threatened § 87(2)(b) with the use of force.

Allegation (O) Force: At East 113th Street and 2nd Avenue in Manhattan, officers used physical force against § 87(2)(b)

Allegation (P) Force: At East 113th Street and 2nd Avenue in Manhattan, Police Officer Roy Anuskiewicz used physical force against § 87(2)(b)

Allegation (R) Discourtesy: At East 113th Street and 2nd Avenue in Manhattan, Police Officer Roy Anuskiewicz spoke discourteously to § 87(2)(b)

At runtime 00:00 of PO Anuskiewicz's BWC footage (BR 19), the first minute of which has no audio, the officer is seated within the driver's seat of his police vehicle at East 113th Street and 2nd Avenue in Manhattan as he appears to gesture with his right hand towards the opened driver's window. It is unclear at this point if the officer is communicating with § 87(2)(b). At runtime 00:40, § 87(2)(b) who is now shirtless, approaches the front hood of the police vehicle from its left side. This second interaction between § 87(2)(b) and the officers occurred approximately 36 minutes after the initial interaction as per onscreen BWC timestamps. He then raises both hands up in fists and swings them downward onto the front hood, striking it. At runtime 00:45, PO Anuskiewicz exits his vehicle as he approaches § 87(2)(b) with two additional officers, Police Officer Amela Dzihic of PSA 5 and PO Tait. § 87(2)(b) stands on the sidewalk as he tells the officers, "Come," repeatedly. At runtime 01:05, PO Tait and PO Anuskiewicz point their tasers at § 87(2)(b) as § 87(2)(b) approaches the officers, with both officers' tasers' laser dots visible on his torso. Police Officer Joseph Wozniak, who is also on scene with Police Officer Steven Grice and Detective Anthony Baresi, both of PSA 5, tells § 87(2)(b) "Put your hands behind your back," as § 87(2)(b) lays the front of his body onto the ground. § 87(2)(b) keeps his hands by his head on the ground. At runtime 01:08, PO Wozniak again tells § 87(2)(b) to put his hands behind his back as the officers approach him. § 87(2)(b) does not move his arms as PO Tait and PO Anuskiewicz grab both of his arms. Officers begin handcuffing him as PO Anuskiewicz places his left hand on top of the back of § 87(2)(b) head, holding it on the ground. As § 87(2)(b) is being handcuffed by police officers, he tells the officers "I didn't do anything, I promise," and PO Anuskiewicz replies, "Are you going to cry? Like a little bitch? Huh?" § 87(2)(b) tells the officer, "Yes," as PO Anuskiewicz repeatedly states, "You going to cry?" At runtime 01:28, PO Anuskiewicz changes the inflection in an apparent imitation of § 87(2)(b) tone of voice, "Oh my god, oh my god." PO Anuskiewicz then grabs § 87(2)(b) hair and appears to shake his head. § 87(2)(b) cries out. PO Anuskiewicz then let's go of § 87(2)(b) head and stands up as other officers finish handcuffing him. At runtime 01:45, § 87(2)(b) threatens to "fuck" all of the officers. At runtime 02:09, after officers have stood § 87(2)(b) up, § 87(2)(b) tells PO Dzihic, "I'll kiss you, I'll fuck you, I'll rape you. When I find you, I'm going to fuck the shit out of you." For approximately two minutes § 87(2)(b) is held by officers as they wait for an ambulance to arrive at the location. At runtime 04:38,

§ 87(2)(b) tells PO Anuskiewicz to “grow some balls.” PO Anuskiewicz replies, “Grow some balls? Didn’t you cry on the floor?” § 87(2)(b) then tells PO Anuskiewicz, “Look at my face,” and PO Anuskiewicz replies, “I am, it’s disgusting.” At runtime 04:56, § 87(2)(b) tells the officers, “I love my mother, I would never disrespect her,” and PO Anuskiewicz replies, “I love your mother, too.” For approximately 12 minutes an agitated § 87(2)(b) is held by officers as they wait for the ambulance to arrive at their location. At runtime 22:00, the officers begin escorting § 87(2)(b) to the ambulance.

§ 87(2)(b) statement (BR 05) is generally consistent with the footage collected with the following additions and exceptions. § 87(2)(b) was followed by two police vehicles at the incident location and as he walked away from them, PO Anuskiewicz from within one of the vans called him a “bitch,” “pussy,” and “wuss.” § 87(2)(b) became agitated, removed his hoodie, and told the officers to get out of the vehicle. He threatened to hit one of their vehicles. PO Anuskiewicz then told § 87(2)(b) “Go ahead and do it.” § 87(2)(b) replied, “Ok,” as he walked to a van and punched its hood. The officers then exited their vehicles and PO Anuskiewicz was the only officer to take out his taser, which intimidated § 87(2)(b). § 87(2)(b) turned away from the officers and willingly went onto his knees and placed both of his arms up in 90-degree angles. The officers then approached him and fully took him down to the ground. § 87(2)(b) did not recall how the officers placed him on the ground. PO Anuskiewicz then told him, “Stop being a crybaby,” and called him a “little bitch.”

PO Anuskiewicz’s statement (BR 20) is generally consistent with the footage collected with the following additions and exceptions. He was seated within a parked vehicle as he first observed § 87(2)(b) pacing back and forth, shirtless and yelling. PO Anuskiewicz could not understand what § 87(2)(b) was saying at the time. § 87(2)(b) then approached the police vehicle and “slammed” both of his fists onto the hood of the car, unprompted. PO Anuskiewicz was unsure why § 87(2)(b) struck the vehicle and could not recall if he or any other officers in the police vehicle spoke with § 87(2)(b) prior to him striking the vehicle. PO Anuskiewicz denied calling or hearing another officer call § 87(2)(b) a “bitch,” “pussy,” or “wuss,” prior to § 87(2)(b) striking the vehicle. PO Anuskiewicz then considered § 87(2)(b) an emotionally disturbed person and wished to take him to hospital given his spontaneous violent conduct. PO Anuskiewicz pointed his taser at § 87(2)(b) because he was concerned that § 87(2)(b) would continue to act violently towards officers after punching the police vehicle. The officer then holstered his taser once § 87(2)(b) went onto the ground. PO Anuskiewicz held onto the back of § 87(2)(b) head to prevent him from biting or spitting on officers. He called § 87(2)(b) “a little bitch,” and spoke about him crying because his adrenaline was high at the moment due to § 87(2)(b) striking the police vehicle. PO Anuskiewicz later told § 87(2)(b) that his face was “disgusting” for the same reason, further influenced by § 87(2)(b) threatening to rape PO Dzihic. During his interview, PO Anuskiewicz was shown his own BWC footage and acknowledged that he did grip onto § 87(2)(b) hair; however, he denied pulling on the hair and stated § 87(2)(b) shook his own head back and forth. PO Anuskiewicz did not know why he gripped onto § 87(2)(b) hair. PO Anuskiewicz told § 87(2)(b) that he loved § 87(2)(b) mother because he was trying “to be nice,” but that it was not an appropriate comment to make at the time because § 87(2)(b) exhibited signs of distress, including tearing up when officers were placing him in handcuffs.

NYPD Patrol Guide Procedure 200-02 (BR 11) states that the NYPD is committed to treating every citizen with compassion, courtesy, professionalism, and respect.

NYPD Administrative Guide Procedure 304-06 (BR 14) prohibits all officers from using discourteous or disrespectful remarks regarding another person’s gender.

None of the evidence collected by the investigation can corroborate § 87(2)(b) statement that PO Anuskiewicz had called him a “bitch,” “pussy,” and “wuss,” prior to exiting his vehicle given that there is no BWC audio during that section of the recording. The BWC footage of the incident does capture PO Anuskiewicz speaking discourteously and offensively to § 87(2)(b) throughout the incident, by calling him a “little bitch,” by repeatedly asking him if he was “going to cry,” referencing having male genitalia in relation to “crying on the floor,” by telling him that his face was “disgusting” and finally by telling him that he “love[d]” his mother. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

NYPD Patrol Guide Procedure 221-08 (BR 16) states that a police officer is allowed to use their taser against a person who is actively resisting or to prevent said person from physically injuring themselves or other person(s). A taser should be used against person(s) who are exhibiting active aggression. Active aggression is defined as threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent. An officer may point and place the laser dot of an activated taser on a subject in order to attempt to achieve voluntary compliance. When feasible, a verbal warning, consistent with personal safety, should be given to the intended subject in conjunction with a laser warning.

It is undisputed that § 87(2)(b) violently struck a police vehicle and made verbal threats to officers, including that he would rape them. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) clearly exhibited violent behavior toward officers. § 87(2)(g)

Footage of the incident shows that prior to being handcuffed, § 87(2)(b) willingly went onto the ground in a prone position. This directly contradicted § 87(2)(b) statement that officers took him onto the ground to handcuff him. § 87(2)(g)

NYPD Patrol Guide Procedure 221-01 and NYPD Patrol Guide Procedure 221-02 (BR 15) states that members of service may use the reasonable force necessary to gain compliance, control, or custody of an uncooperative subject. An officer shall not use any level of force to punish a civilian.

BWC footage shows PO Anuskiewicz gripping § 87(2)(b) hair while he was on the ground as § 87(2)(b) head moves back and forth. PO Anuskiewicz was unable to provide a reason for that force § 87(2)(g)

Within the context of the discourteous and offensive comments made by the officer during the physical interaction, the sudden and rapid movements of § 87(2)(b) head, and what appear to be sounds of discomfort coming from § 87(2)(b) while the physical interaction was occurring. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation (J) Discourtesy: At East 113th Street and 2nd Avenue in Manhattan, Police Officer Jonathan Tait spoke discourteously to § 87(2)(b)

Allegation (K) Offensive Language: At East 113th Street and 2nd Avenue in Manhattan, Police Officer Jonathan Tait made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)

Allegation (T) Abuse of Authority: At East 113th Street and 2nd Avenue in Manhattan, Police Officer Jonathan Tait forcibly removed § 87(2)(b) to the hospital.

At runtime 01:00 of PO Tait's BWC footage (BR 17), PO Tait approaches § 87(2)(b) on the sidewalk and tells him, "Come here, little bro." At runtime 01:13, PO Tait continues to follow § 87(2)(b) as § 87(2)(b) is walking away from him. While following § 87(2)(b) PO Tait repeatedly tells him to "come here." PO Tait then points his taser at § 87(2)(b) with a red dot hovering over § 87(2)(b) upper torso. While the officer has his taser pointed at § 87(2)(b) he tells him, "Get the fuck on the ground, bitch." § 87(2)(b) places himself onto the ground in a prone position. At runtime 01:20, PO Tait stands in front of § 87(2)(b) and bends down. Upon bending down, § 87(2)(b) is captured flipped over with his back on the pavement and his arms guarding his torso and face. PO Tait grabs and pulls onto both of § 87(2)(b) wrists, and he flips § 87(2)(b) back onto his stomach. While § 87(2)(b) is being flipped over, PO Tait tells him, "Why you acting like a bitch?" At runtime 01:26, PO Tait takes § 87(2)(b) left arm and places it behind his back as approximately four additional officers assist him in placing § 87(2)(b) in handcuffs. PO Tait secures the handcuffs. At runtime 01:52, § 87(2)(b) is fully handcuffed as PO Tait takes out his radio requests EMS to his location for an "EDP." For approximately 21 minutes, the officers wait for EMS to respond to the location. At runtime 23:00, § 87(2)(b) enters the ambulance with PO Tait as PO Tait tells one of the EMTs that § 87(2)(b) was "screaming," "acting crazy," "crying," and "hit a car."

§ 87(2)(b) statement (BR 05) is generally consistent with the footage collected with the following additions and exceptions. After § 87(2)(b) was handcuffed, an officer asked § 87(2)(b) if he would like to go to the hospital and he replied, "Yes," but was only interested in treatment for previous physical injuries. § 87(2)(b) was then transported to § 87(2)(b) to get psychiatrically evaluated. While at the hospital, the staff forced § 87(2)(b) to take sleeping drugs because they believed he was being too "aggressive and dangerous."

§ 87(2)(g)

Allegation (Q) Abuse of Authority: At East 113th Street and 2nd Avenue in Manhattan, Police Officer Roy Anuskiewicz searched § 87(2)(b)

Allegation (S) Abuse of Authority: At East 113th Street and 2nd Avenue in Manhattan, officers failed to provide § 87(2)(b) with a business card.

Allegation (U) Abuse of Authority: At East 113th Street and 2nd Avenue in Manhattan, Police Officer Roy Anuskiewicz failed to provide § 87(2)(b) with a business card.

At runtime 01:35 of PO Anuskiewicz's BWC footage (BR 19), while § 87(2)(b) is on the ground in handcuffs, PO Anuskiewicz approaches § 87(2)(b) left side and bends down. At runtime 01:49, PO Anuskiewicz's leans down to § 87(2)(b) who is on his back, and places his hand towards § 87(2)(b) front left pants pocket and the sound of rustling items is subsequently heard. The pocket or any potential bulges of the pocket, as well as PO Anuskiewicz's hands, are not clearly captured

before or during the time PO Anuskiewicz appears to interact with it. At runtime, 01:52, § 87(2)(b) tells PO Anuskiewicz, “I ain’t got no drugs on me. No drugs.” § 87(2)(b) left front pants pocket is then captured, and no discernible bulges are depicted. PO Anuskiewicz holds a set of keys in his right hand. At runtime 01:55, PO Anuskiewicz grabs onto § 87(2)(b) right front pants pocket and, without frisking it, places his left hand inside. At runtime 02:00, PO Anuskiewicz places § 87(2)(b) apartment keys inside of his left front pants pocket. At runtime 02:13, as § 87(2)(b) is standing, PO Anuskiewicz begins searching within both of § 87(2)(b) rear pants pockets as he removes a phone and wallet from his right rear pants pocket. PO Anuskiewicz opens § 87(2)(b) wallet and searches within it. At runtime 02:34, PO Anuskiewicz asks § 87(2)(b) “What’s your name?” § 87(2)(b) and § 87(2)(b) replies, “Yes.” PO Anuskiewicz then removes what appears to be § 87(2)(b) ID. At runtime 03:05, PO Anuskiewicz takes out his department phone and for approximately two minutes, he keeps § 87(2)(b) wallet as he shows the wallet and ID to PO Tait and shows his department phone to Sergeant Kenneth Bryant of PSA 5. At runtime 04:34, PO Anuskiewicz places § 87(2)(b) wallet in his right front pants pocket. At no point in the footage does PO Anuskiewicz ask § 87(2)(b) for his consent prior to searching his pants pockets and his wallet nor does he offer his business card to § 87(2)(b).

At no point in the exhaustive BWC footage of this portion of the incident does § 87(2)(b) request an officer’s business card and no officer offers him one (**BR 01**).

§ 87(2)(b) statement (**BR 05**) is generally consistent with the footage collected with the following additions and exceptions. While waiting for EMS to arrive, he said that he wanted an officer’s business card and PO Tait replied, “You want my business card,” in a sarcastic tone of voice. § 87(2)(b) told the officer, “I want anyone’s business card,” and no officer responded. § 87(2)(b) stated that he made this statement in front of all of the officers who responded to the incident and wished to receive all of their business cards. § 87(2)(b) did not receive any officer’s business card on the date of the incident.

PO Anuskiewicz’s statement (**BR 20**) is generally consistent with the footage collected with the following additions and exceptions. He explained that he had searched all of § 87(2)(b) pants pockets for two reasons. The first reason was because the officer had noticed a “protruding” bulge that resembled a knife on his left front pants pockets and secondly, he needed to recover § 87(2)(b) personal identification such as his ID because § 87(2)(b) was being brought to the hospital. The officer did not need § 87(2)(b) consent to search him because of safety concerns the officer had regarding the weapon-shaped bulge. When shown the above-referenced BWC footage during his interview, PO Anuskiewicz was unable to identify the weapon-shaped bulge he saw because of the low quality of the footage. PO Anuskiewicz believed he might have searched all four of § 87(2)(b) pant pockets. PO Anuskiewicz did not offer § 87(2)(b) his business card because he was not required to do so.

Patrol Guide Procedure 212-11 (**BR 09**) states an officer may request consent to search; however, the consent must be voluntarily given. If said person does not consent to a search, the search cannot be conducted unless an initial frisk by an officer leads them to reasonably believe that the civilian is armed. New York City Administrative Code 14-173 (**BR 22**) states that exceptions to this rule are when such search is conducted pursuant to a warrant, any other exception to the warrant requirement under applicable law, probable cause of a weapon, or when such search is incident to a lawful arrest.

Unlike a waistband bulge, telltale of a weapon, a pocket bulge could be caused by any number of innocuous objects. If the frisk reveals an object that is reasonably believed to be a weapon, the

officer is permitted to enter clothing and remove it. People v. DeBour, 40 N.Y.2d 210 (1976) (BR 21).

NYPD Patrol Guide Procedure 216-02 (BR 23) states that, “if a person is unidentified and hospitalized, enter the hospital admission number under caption ‘Admission #: if unidentified and hospitalized’ on [the] aided report.”

At the conclusion of a law enforcement activity, such as a frisk and search, an officer must offer a business card to all persons involved in the activity Administrative Code 14-174 (BR 13).

Though the BWC footage does not corroborate PO Anuskiewicz’s statement of there being a weapon-shaped bulge on § 87(2)(b) left pants pocket, § 87(2)(g)

BWC footage captures the majority of the incident and at no point does it capture § 87(2)(b) requesting business cards from multiple officers as alleged. § 87(2)(g)

§ 87(2)(g)
§ 87(2)(b) it is undisputed that the officer did not offer his business card to § 87(2)(b) at any point afterwards. § 87(2)(g)

Allegation (V) Abuse of Authority: At § 87(2)(b) located at § 87(2)(b) in Manhattan, Police Officer Roy Anuskiewicz failed to provide § 87(2)(b) with a business card.

Allegation (W) Abuse of Authority: At § 87(2)(b) located at § 87(2)(b) in Manhattan, Police Officer Jonathan Tait failed to provide § 87(2)(b) with a business card.

§ 87(2)(b) stated (BR 05) that he was brought to § 87(2)(b) by PO Tait and PO Anuskiewicz. The officers escorted him to the lobby of the hospital where he was made to wait for staff to assist him. While waiting in the lobby, he asked both officers for their business cards approximately four times and they both stayed silent. § 87(2)(b) was not given a business card by either officer.

At runtime 42:40 of PO Tait’s BWC footage (BR 17), the ambulance arrives at § 87(2)(b) and PO Tait escorts § 87(2)(b) to the front entrance of the hospital. At runtime 43:18, § 87(2)(b) and PO Tait both enter the vestibule section of the front entrance as they wait. PO Tait waits with § 87(2)(b) in silence for approximately two minutes before turning off his BWC. At no point in this footage does it capture § 87(2)(b) requesting an officer’s business card. Of all of the BWC footage collected during the investigation, at no point does § 87(2)(b) request an officer’s business card, nor does it capture PO Anuskiewicz within the hospital.

PO Anuskiewicz stated (BR 20) that once § 87(2)(b) was placed inside the ambulance with PO Tait, he entered his police vehicle and followed behind them to § 87(2)(b) because PO Tait was his assigned partner. PO Anuskiewicz denied entering the hospital or speaking with § 87(2)(b) there. He did not know what § 87(2)(b) discussed in the hospital with PO Tait.

The NYPD's Department Advocate's Officer (DAO) confirmed that PO Tait resigned with permission from the NYPD on May 18, 2023 (BR 18).

NYPD Administrative Guide Procedure 304-11 (BR 24) states that all officers must provide their business card to anyone who requests them to do so.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to two other CCRB complaints as a witness in both (BR 25).
- PO Crespo has been a member of service for nine years and has been a subject in 11 other CCRB complaints and 27 other allegations, of which one was substantiated.
 - #202103268 involved a substantiated allegation of a Stop against PO Crespo. The Board recommended command discipline and the NYPD imposed it.
- PO Perrier has been a member of service for ten years and has been a subject in one other CCRB complaints and four other allegations, none of which were substantiated. § 87(2)(g)
- PO Hiraldo-Garcia has been a member of service for six years and has been a subject in four other CCRB complaints and 14 other allegations, none of which were substantiated. § 87(2)(g)

§ 87(2)(g)

- PO Anuskiewicz has been a member of service for eight years and has been subject in three other CCRB complaints and 15 other allegations, of which one was substantiated.
 - 202005820 involved a substantiated allegation of a Threat of Force against PO Anuskiewicz. The Board recommended charges and the NYPD imposed instructions.
- PO Tait had been a member of service for an unknown period of time and had been a subject in one other CCRB complaints and one other allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As per the NYC Comptroller's Office, as of April 25, 2024, no Notice of Claim had been filed about this incident (BR 27).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

RPBP History

- This complaint did not contain any allegations of Racial Profiling/Bias-Based Policing.

Squad No.: 17

Investigator:	<u>Kelly Guillon</u> Signature	<u>Investigator Kelly Guillon</u> Print Title & Name	<u>May 8, 2024</u> Date
Squad Leader:	<u>Benjamin Shelton</u> Signature	<u>AIM Benjamin Shelton</u> Print Title & Name	<u>05/09/2024</u> Date
Reviewer:	<u></u> Signature	<u></u> Print Title & Name	<u></u> Date